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12 **BEFORE THE**
13 **BOARD OF REGISTERED NURSING**
14 **DEPARTMENT OF CONSUMER AFFAIRS**
15 **STATE OF CALIFORNIA**

16 In the Matter of the Accusation Against:

Case No. **2010-240**

17 CHERYL RANA MURPHY AKA CHERYL
18 RANA DAVIES AKA CHERYL RANA
19 EMBREE; CHERYL RANA LEE
20 5684 Bay Street, Apt. 759
21 Emeryville, CA 94608

ACCUSATION

22 Registered Nursing License No. 562785

23 Respondent.

24 Complainant alleges:

PARTIES

25 1. Louise Bailey, M.Ed., RN. (Complainant) brings this Accusation solely in
26 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
27 Department of Consumer Affairs.

28 2. On or about January 24, 2000, the Board of Registered Nursing (Board)
issued Registered Nursing License No. 562785 to Cheryl Rana Murphy aka Cheryl Rana Davies
aka Cheryl Rana Embree; Cheryl Rana Lee (Respondent). The Registered Nursing License was

1 in full force and effect at all times relevant to the charges brought herein and will expire on
2 March 31, 2011, unless renewed.

3 JURISDICTION

4
5 3. This Accusation is brought before the Board under the authority of the
6 following laws. All section references are to the Business and Professions (Code) unless
7 otherwise indicated

8 STATUTORY PROVISIONS

9 4. Section 118, subdivision (b), of the Code provides in pertinent part, that
10 the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of
11 jurisdiction to proceed with a disciplinary action during the period within which the license may
12 be renewed, restored, reissued or reinstated.

13
14 5. Section 490 of the Code states, in pertinent part, that the Board may
15 suspend or revoke a license when it finds that the licensee has been convicted of a crime
16 substantially related to the qualifications, functions or duties of a licensed registered nurse.

17 6. Section 2761 of the Code states, in pertinent part:

18 "The board may take disciplinary action against a certified or licensed nurse or
19 deny an application for a certificate or license for any of the following:

20 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

21 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed
22 nursing functions."

23
24 7. Section 2762 of the Code states, in pertinent part:

25 "In addition to other acts constituting unprofessional conduct within the meaning
26 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
27 under this chapter to do any of the following:
28

1 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
2 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
3 or administer to another, any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
5 defined in Section 4022.
6

7 "(b) Use any controlled substance as defined in Division 10 (commencing with
8 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
9 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
10 injurious to himself or herself, any other person, or the public or to the extent that such use
11 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
12 license.
13

14 "(c) Be convicted of a criminal offense involving the prescription, consumption,
15 or self-administration of any of the substances described in subdivisions (a) and (b) of this
16 section, or the possession of, or falsification of a record pertaining to, the substances described in
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
18 thereof."
19

20 REGULATORY PROVISIONS

21 8. California Code of Regulations, title 16, section 1444, states:

22 "A conviction or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
24 present or potential unfitness of a registered nurse to practice in a manner consistent with the
25 public health, safety, or welfare. . . ."
26

27 9. Health and Safety Code section 11173, subdivision (a) states, in pertinent
28 part:

“(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge.”

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11. DANGEROUS DRUGS/CONTROLLED SUBSTANCES

a. "Dilaudid," an opium derivative, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(k), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

b. "Hydromorphone, an opium derivative, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(k) and is categorized as a dangerous drug pursuant to section 4022. Dilaudid is a trade name (Knoll) for the narcotic substance Hydromorphone.

FIRST CAUSE FOR DISCIPLINE

(Convictions of Substantially Related Crimes)

12. Respondent is subject to disciplinary action under section 2761, subdivision (a), section 2762, subdivision (b) and section 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a licensed registered nurse, as follows:

a. On or about June 29, 2007, Respondent was convicted by the Court on a

1 plea of nolo contendere for violating one count of Vehicle Code section 23152(b) (driving while
2 having blood alcohol content greater than 0.8%), a misdemeanor, and one count of Vehicle Code
3 section 14601.1(a) (driving a vehicle with a suspended license), a misdemeanor, in the criminal
4 proceeding entitled *The People of the State of California v. Cheryl Rana Lee* (Super. Ct. Kern
5 County, 2007, No. BM704780A). Respondent was placed on 3 years probation and fined
6 \$1729.00. The circumstances surrounding the convictions are that on or about January 4, 2007,
7 Respondent was arrested by Bakersfield Police Department for driving under the influence of
8 alcohol with a suspended driver's license.

10 b. On or about July 12, 2005, Respondent was convicted by the Court on a
11 plea of nolo contendere for violating one count of Vehicle Code section 23103.5 (driving a motor
12 vehicle with a suspended license), a misdemeanor, in the criminal proceeding entitled *The People*
13 *of the State of California v. Cheryl Rana Lee* (Super. Ct. Kern County, 2005, No. BF107643A).
14 Respondent was placed on 3 years probation. The circumstances surrounding the conviction are
15 that on or about September 10, 2004, California Highway Patrol responded to a collision
16 involving two vehicles. Upon arriving, officer's observed Respondent's unsteady gait, bloodshot
17 watery eyes and the smell of alcohol on her breath. Respondent was arrested and transferred to
18 jail. Respondent refused to submit to a chemical test and displayed violent behavior toward
19 officers while in custody.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Dangerous Use of Alcohol)**

24 13. Respondent is subject to disciplinary action under section 2761,
25 subdivision (a), on the grounds of unprofessional conduct, as defined in section 2762,
26 subdivision (b), in that on or about January 4, 2007, Respondent used alcohol beverages to an
27 extent or in a manner dangerous to herself, and others. Complainant refers to, and by this
28

1 reference incorporates, the allegations set forth above in paragraph 12, subparagraph (a), as
2 though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Conviction Involving the Consumption of Alcohol)**

5
6 14. Respondent is subject to disciplinary action under section 2761,
7 subdivision (a) on the grounds of unprofessional conduct as defined in Code section 2762,
8 subdivision (c), in that on or about June 29, 2007, Respondent was convicted of a crime
9 involving the consumption of alcohol. Complainant refers to, and by this reference incorporates,
10 the allegations set forth above in paragraph 12, subparagraph (a), as though set forth fully.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct)**

13
14 15. Respondent is subject to disciplinary action under section 2761,
15 subdivision (a)(1), on the grounds of unprofessional conduct as defined in section 2762,
16 subdivision (a), in conjunction with California Code of Regulations, title 16, section 1444, in that
17 on and between November 1, 2006, and November 13, 2006, while employed by Mercy Hospital,
18 Bakersfield, California, as a registered nurse traveler, Respondent did the following:

19 a. Obtained controlled substances by fraud, deceit, misrepresentation or
20 subterfuge or by the concealment of a material fact in violation of the Health and Safety Code
21 section 11173, subdivision (a) and (b), by signing out Dilaudid and Hydromorphone for various
22 patients and taking it for her own personal use.

23 **Patient MR-9725 (1):**

24
25 b. On or about November 1, 2006, Respondent removed 2 mg of Dilaudid
26 from the Pyxis system, recorded 1 mg administered, and failed to chart any wastage of the
27 medication. The treating physician did not order any Dilaudid medication.
28

1 Patient MR-6520 (3):

2 c. On or about November 8, 2006, Respondent removed 2 mg of Dilaudid
3 from the Pyxis system, did not chart in patient's file, and failed to chart any wastage of the
4 medication. The treating physician ordered 1 mg of Dilaudid medication. At 0630 hours 1 mg
5 dose of Dilaudid was drawn and administered by another nurse. At 0658 hours Respondent drew
6 a second 1 mg dose for the patient, with no record of administration.
7

8 Patient MR-1325 (4):

9 d. On or about November 8, 2006, Respondent removed 2 mg of Dilaudid
10 from the Pyxis system at 1334, charted as 1 mg at 1320 and failed to chart any wastage of the
11 medication. Physician ordered 1 mg of Dilaudid medication. Respondent failed to document
12 response; administration time is 14 minutes prior to the Pyxis removal time. At 1621,
13 Respondent removed 2 mg of Dilaudid medication from the Pyxis system, charted as 1 mg at
14 1500, and failed to chart any wastage of the medication. The treating physician ordered 1 mg of
15 Dilaudid medication. Respondent failed to document response; administration time is 1 hour and
16 21 minutes prior to the Pyxis removal time. At 1711, Respondent removed 2 mg of Dilaudid
17 from the Pyxis system, did not chart record, documented 2 mg of Dilaudid wastage at 1723.
18 Physician did not order Dilaudid medication.
19
20

21 Patient MR-6997 (5):

22 e. On or about November 9, 2006, Respondent removed 2 mg of
23 Hydromorphone from the Pyxis system at 1821, failed to chart the record, and at 1825
24 documented wastage of 2 mg of Hydromorphone. The treating physician did not order
25 Hydromorphone medication.
26

27 Patient MR-4673 (6):

28 f. On or about November 9, 2006, Respondent removed 2 mg of

1 Hydromorphone from the Pyxis system at 1516, failed to chart the record, and at 1525
2 documented wastage of 2 mg of Hydromorphone. The treating physician did not order
3 Hydromorphone medication. Under the allergies section of the ER form, the patient listed an
4 allergy to morphine.

5
6 Patient MR-0621 (7):

7 g. On or about November 10, 2006, Respondent removed 2 mg of
8 Hydromorphone from the Pyxis system at 1814, charted in record administered 1 mg at 0800, and
9 failed to document wastage of 1 mg of Hydromorphone. Respondent failed to document
10 response; administration time is 14 minutes prior to the Pyxis removal time. The treating
11 physician ordered 1 mg, IM of Hydromorphone.

12
13 Patient MR-0734 (10):

14 h. On or about November 13, 2006, Respondent removed 2 mg of
15 Hydromorphone from the Pyxis system; failed to chart record, and failed to document wastage of
16 2 mg of Hydromorphone. The treating physician did not order Hydromorphone medication.

17
18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein
20 alleged, and that following the hearing, the Board issue a decision:

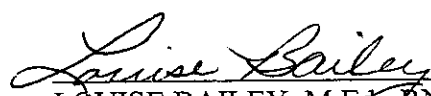
- 21
- 22 1. Revoking or suspending Registered Nursing License No. 562785, issued
23 to Respondent;
 - 24 2. Ordering Respondent to pay the Board the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3, and
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3. Taking such other and further action as deemed necessary and proper.

DATED: 11/3/09


LOUISE BAILEY, M.Ed., R.N.
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2008601184
Accusation - Cheryl Murphy.wpd
st(9-11-08)